



Funding Sources for Implementing the Risk Management Program

Under the accidental release prevention provisions of Section 112(r) of the Clean Air Act, EPA established a list of regulated substances and thresholds and promulgated Risk Management Program regulations. The goal of the regulations is to prevent accidental releases of chemicals that could cause immediate, serious harm to human health and the environment and to communicate accident and prevention information to the public. EPA is developing a number of guidance pieces, including industry-specific plans, and other products to support implementation. The Risk Management Program builds on EPCRA activities and, like EPCRA, is most appropriately implemented at the local level where the risk is. Information in the risk management plan will be helpful to LEPCs and other local entities as well as the general public.

States and local agencies can develop their own Risk Management Program and seek full or partial delegation from EPA to implement the program. Funding is often the number one consideration for States in deciding whether to adopt the Risk Management Program. The funding approaches of States with existing Risk Management Programs offer guidance to other States that are beginning to develop a State-administered program. States are

examining these State funding approaches as well as the Federal funding options for Section 112(r). They also are exploring other State funding options. State and Federal sources can be used separately or in combination to help States address the financial challenges of implementing Section 112(r).

Four States' Experiences

The experiences of Delaware, Louisiana, Nevada, and New Jersey suggest the potential fiscal impact of Section 112(r) on States. These States operated Risk Management Programs before the Federal program was established. Their experiences indicate that the annual cost to a State of operating a chemical accident prevention program will vary depending on its strategy for ensuring compliance with the program, as well as the number and type of facilities in the State that must comply with the Federal requirements.

For example, the 1995/96 staff and operating costs for New Jersey's Risk Management Program were \$810,000 for the State's 104 toxic chemical facilities covered under the program. The State recovered these costs by assessing fees on these facilities based on the quantity of chemicals on site and the number of processes covered under the rule.



All of these funds were dedicated to paying for the staff costs to audit risk management plans to ensure compliance with the State's requirements and perform comprehensive on-site facility inspections. New Jersey estimates that an additional 430 facilities will be added as a result of Section 112(r); however, they expect program costs to rise to only \$1,000,000.

Although Delaware covers approximately the same number of facilities as New Jersey under its accident prevention program, Delaware's costs are significantly less than those of New Jersey because Delaware performs fewer facility audits. The State's fee system that funds its accident prevention program raises \$140,000 of the \$225,000 needed to administer the program; the remaining costs are covered by State general funds. Delaware reduced its costs by developing a generic compliance program for the State's propane distributors, the industry sector that comprises 44 percent of the facilities affected by the State's program. This approach has reduced the need for costly, individual audits. Delaware estimates Section 112(r) requirements will only add 5-10 more facilities to their existing program, bringing the total facilities covered to 100-110. Delaware recently added a position funded by Title V fees to coordinate the Title V and Section 112(r) requirements, review risk management plans, and increase the frequency of on-site inspections.

The Nevada Division of Environmental Protection spends \$270,000 annually to administer its risk management program for thirty-six facilities. State officials anticipate that an additional 100 facilities will be subject to both the State program and Federal Section 112(r) requirements, increasing Nevada's costs to \$390,000. Louisiana allocates approximately \$500,000 for its accident prevention program to cover the costs of establishing a database, registering, and performing audits of facilities. In Louisiana, facilities that are subject to the State's accident prevention rule are required to register with the

state by January 1, 1998. As of April 1, 1998, 492 facilities have registered.

The cost to a State of administering Section 112(r) will be affected by the scope of training, number and types of sources, technical assistance, inspection, review, and oversight activities that State agencies undertake. States will be better able to determine program costs after assessing their capabilities, existing State agency expertise, and the potential risks of chemical accidents at facilities covered under the program.

Federal Funding Options

The following Federal funding programs are available to States to assist in the "start-up" of accidental release prevention programs.

Section 105 Air Quality Grants. Annually, the Federal government makes funds available to States for developing and implementing all Federal air quality programs including the Risk Management Program. For example, EPA distributes air quality grants allocated through Section 105 of the Clean Air Act for administering Federal air permitting regulations. States can also use these grants to fund Section 112(r) activities for facilities subject to both regulations. As risk management provisions have some Federal operating permit requirements, States can receive funding for activities that address the prevention and control of air pollution. These activities may include planning, developing, establishing, improving, and maintaining programs. In most States, these funds are committed to staffing and other expenses needed to operate the State's air quality management program and may not be enough to fully support Section 112(r) activities. In those States that will not be implementing 112(r), some EPA Regional offices plan to use these grant funds to support EPA implementation activities. Further information on Section 105 Air Quality Grants can be obtained by contacting EPA's Office of Air Quality Planning and Standards (OAQPS).

Technical Assistance Project Grants. EPA's Chemical Emergency Preparedness and Prevention (CEPP) Technical Assistance Project Grants offer funding for State, local, and Tribal agencies for implementing the Risk Management Program and for developing the underlying support system. The 1998 grant program, administered by EPA's Chemical Emergency Preparedness and Prevention Office (CEPPO), will provide financial assistance to States that are developing chemical accident prevention programs and integrating these activities into related chemical emergency preparedness programs. Under the CEPP grant program, applicants can request up to \$100,000 to cover activities related to Section 112(r) implementation, such as developing a comprehensive implementation strategy for the State or providing guidance and training materials to LEPCs. Applicants can apply whether they are seeking full or partial delegation. Awards will be made using the Clean Air Act Section 112(l)(4) and Section 103(b)(3) authorities. This authority allows EPA to award grants related to the Risk Management Program, not only to States, but also directly to local governments. The grantee must provide matching funds equal to 25 percent of the total project cost. CEPPO plans to increase the funding for this grant program in 1999, subject to Congressional action on the President's Budget. Further information on CEPP Technical Assistance Project Grants can be obtained by contacting CEPPO.

State Funding Options

Using Existing State Agency Resources. States are faced with implementing existing chemical emergency planning and response programs on limited budgets. Relying on existing funds will require States to integrate Section 112(r) activities with other related State programs. It will also require them to examine current emergency planning and response priorities to reallocate funding and staff for Section 112(r) implementation.

Establishing a New State Fee System. A number of States already have fee systems to fund existing chemical accident prevention programs and other CAA programs. Fees can be based on the category under which the facility falls, which is tied to the severity of possible risks, or on the number of processes at a facility that are subject to the requirements of the Section 112(r) program. Some State officials believe that the current political climate will make it difficult for their legislatures to pass legislation that imposes new fees or raises existing fees on businesses in the State to cover the costs of implementing Section 112(r). However, many States realize that a fee system is the principal way to implement this program.

The Florida Department of Community Affairs (DCA) submitted legislation in the 1998 session creating the Florida Accidental Release Prevention and Risk Management Planning Act. This act would enable DCA to implement the RMP program for all sources in Florida, with the exception of facilities using, storing, processing, or manufacturing liquefied petroleum gas as the only subject process on-site. The bill calls for a fee-based system, depending upon the highest program level to which a process in the facility could be assigned. The annual RMP registration fee is due upon the first RMP submission in June 1999 and each April thereafter. Fee reductions and caps have been created for multiple facilities under common ownership. Facilities with Program 1 processes would submit a fee up to \$100, while processes in Programs 2 and 3 would be assigned fees up to \$200 and \$1,000, respectively. Florida's legislation includes a graduated fee for same, single chemical process Program 1 and 2 sources with a common owner. In addition, agricultural retailers in Program 2 will be eligible for reduced fees. In order to ensure consistent program implementation statewide, the bill would name DCA as the only implementing agency for the RMP program. DCA is directed to create Memorandums of Understanding (MOUs) with other State agencies to provide process and modeling expertise as needed.

Delaware legislation passed in 1989 and amended in 1991 established a fee program to fund the State's accident prevention program. The fee is based on units that are calculated by dividing the facility's total inventory of a specific chemical by the threshold quantity established by the State regulation for that chemical. The State charges \$500 each year for the first unit and \$25 for each additional unit covered under Section 112(r), up to a maximum of \$7,975 per facility.

Legislation passed in Louisiana in August 1997 revises the existing fee structure to cover the anticipated operating costs of the State's accident prevention program, totaling approximately \$500,000 in fiscal 1997 and fiscal 1998. Under the State law, facilities that pose the greatest risk are subject to a \$2,500 fee and those that pose less risk are charged a \$200 fee.

Using Revenue from the State's Title V Operating Permit Fee Program. States are looking to tap resources dedicated to related programs that can also be used for Section 112(r) implementation. For example, all States have imposed permit fees to cover the costs of implementing Federal air permitting regulations under Title V of the Clean Air Act. These Title V fees can only be used to implement a program for major sources. Georgia is one of several States that will use the revenue currently collected under the State's Title V fee program to administer Section 112(r) activities for facilities subject to both Section 112(r) and air permitting programs and will use existing resources to administer area sources.

States may need to use multiple funding sources to operate their Section 112(r) programs. The South Carolina Department of Health and Environmental Control (SCDHEC) will use fees it receives from facilities that must obtain Title V or other State air quality operating permits to administer Section 112(r) activities for those facilities subject to both Section 112(r) and air quality permitting requirements. SCDHEC is considering establishing a fee system to cover the

costs of administering the program for the remaining non-permitted facilities and requesting assistance from EPA via grants to cover these costs. SCDHEC is working with other State agencies and programs such as the Fire Marshal's office, water program, and State OSHA to explore possible methods of consolidating resources, minimizing duplication, and potentially reducing fees for affected facilities.

States choosing to implement Section 112(r) are finding creative funding approaches that best use the State's expertise and resources. Sharing resources between State agencies and keeping abreast of potential State and Federal funding sources can help States successfully implement Section 112(r).

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